

Lyew, Sandra

August 28, 2015

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IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF WEST VIRGINIA
AT BECKLEY

DAVID M. DAUGHERTY,

Plaintiff,

v.

CIVIL ACTION
NO. 5:14-24506

EQUIFAX INFORMATION SERVICES, LLC
and OCWEN LOAN SERVICING, LLC,

Defendants.

30(b)(6) DEPOSITION UPON ORAL EXAMINATION
OF SANDRA LYEW
TAKEN ON BEHALF OF THE PLAINTIFF

Virginia Beach, Virginia

August 28, 2015

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1 Appearances:

2

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21

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1 30(b)(6) deposition upon oral
2 examination of SANDRA LYEW, taken on behalf of the
3 Plaintiff, before Penny C. Wile, RPR, RMR, CRR, a
4 Notary Public for the Commonwealth of Virginia at
5 large, taken pursuant to notice, commencing at 9:20
6 a.m. on August 28, 2015, at the law offices of
7 Troutman Sanders, LLP, 222 Central Park Avenue, Suite
8 2000, Virginia Beach, Virginia; and this in
9 accordance with the Federal Rules of Civil Procedure.

10 - - - -

11 SANDRA LYEW was sworn and deposed on
12 behalf of the Plaintiff as follows:

13 EXAMINATION

14 BY MR. NOLAN:

15 Q. My name is Jed Nolan, and I represent
16 David Daugherty who filed a claim against OCWEN Loan
17 Servicing in this matter.

18 Can you state your name for the record?

19 A. **Sandra Lyew, L-Y-E-W.**

20 Q. And it's pronounced Lyew?

21 A. **Yes.**

22 Q. Hopefully I don't butcher that up. I
23 apologize if I do.

24 We've asked to take OCWEN's deposition
25 today. And they've designated you as their corporate

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1 representative.

2 A. Yes.

3 Q. So when I say you, I mean actually
4 OCWEN. I don't mean you, Ms. Lyew.

5 If you need a break at any time, we'll
6 take breaks.

7 A. Yes.

8 Q. We're not trying to do a real marathon
9 or anything else. We're just trying to get these
10 questions out.

11 MR. MANNING: And just in terms of
12 breaks, I ordered the food to come between 12:00 and
13 1:00. We can take as long or as short as you guys
14 want, depending on how your pace is. Sandra has a
15 flight she has to be on that boards at 5:20, so she
16 has a car coming at 4:00. If that means you're going
17 to be real tight on time, we'll take little to no
18 lunch, because we know that you said you had a lot to
19 get through, but we just kind of wanted to defer to
20 you on the lunch timing issue.

21 MR. NOLAN: And we'll see. I might be
22 able to breeze through it quicker than I thought. If
23 we get bogged down, we'll just take a look at it
24 then.

25

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1 BY MR. NOLAN:

2 Q. If I ask a question, you don't know what
3 I'm talking about, please ask me to rephrase it.
4 Make me do my job and ask clear questions, okay?

5 A. Of course.

6 MR. NOLAN: The first thing I'd like to
7 do is mark this as Exhibit 1.

8 (Exhibit No. 1 was marked for
9 identification.)

10 BY MR. NOLAN:

11 Q. I've handed you -- this is our Third
12 Notice of Deposition that we filed in this matter.
13 Have you had a chance to review this before coming in
14 today?

15 A. Yes, I have.

16 Q. Okay. I'd like to begin by talking
17 broadly about OCWEN's disputes in their
18 reinvestigation process.

19 How many credit disputes does OCWEN
20 receive annually?

21 A. That I don't know.

22 Q. And I'm just looking for a ballpark
23 figure.

24 A. More than 100.

25 Q. More than 100?

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1 **A. Yes.**

2 **Q. More than 150?**

3 **A. That's possible. I don't know.**

4 **Q. More than 200?**

5 **A. I don't know.**

6 **Q. So OCWEN, from my understanding, is a**
7 **mortgage loan servicer; is that correct?**

8 **A. Yes.**

9 **Q. Do they have any other creditors for any**
10 **other types of loans besides mortgages?**

11 **A. Other creditors?**

12 **Q. Do they service any types of debt other**
13 **than mortgage loans?**

14 **A. They do, as far as I know, residential,**
15 **mostly residential. I believe there is probably a --**
16 **they do have a commercial division.**

17 **Q. And so how many loans would OCWEN**
18 **service at any given time, just a rough estimate?**

19 **A. Hundreds of thousands.**

20 **Q. So out of the hundreds of thousands of**
21 **loans they have that they're servicing, you estimate**
22 **that at least 100 disputes come in every year?**

23 **A. I can vouch for -- well, I can't vouch**
24 **for that, but I'm going to assume that. I don't want**
25 **to assume. This is why it is a hypothetical.**

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1 Q. Sure. I'm just trying to get a ballpark
2 figure to see how many disputes would come in on an
3 annual basis.

4 A. We have different departments that
5 handle different functions when it comes to disputes
6 or any type of -- any type of disputes, whether it's
7 credit or the actual accounts. I don't work in those
8 departments, so this is why I can't --

9 Q. Give an actual firm number? Sure.
10 And so if I were to ask the amount of
11 time that OCWEN allocates to investigating disputes,
12 would you be able to provide a guesstimate on that?

13 A. An actual time that they're supposed to
14 respond to a dispute?

15 Q. Okay. We'll start with that. Yes.

16 A. They respond to a dispute within
17 30 days.

18 Q. Does it typically take 30 days to
19 respond to a dispute?

20 A. Well, the guidelines is supposed to be
21 30 days -- up to 30 days to respond to a dispute.

22 Q. And do you have any -- does OCWEN have a
23 typical response time? Is it typically 30 days or do
24 they usually get it done quicker than that?

25 A. It can be done in less time, depending

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1 on the dispute.

2 Q. Now, does OCWEN investigate disputes
3 inhouse or do they outsource that job function?

4 A. No. They do it inhouse.

5 Q. So those are OCWEN employees that are
6 investigating disputes?

7 A. Yes.

8 Q. How are these employees compensated?

9 A. Compensated? I want to assume that
10 there is an hourly pay.

11 Q. Is there a range of salaries or an
12 hourly rate paid to these reinvestigation employees?

13 A. I don't know.

14 Q. Is compensation strictly hourly or is it
15 tied to -- are there any incentives for these
16 employees?

17 A. I don't know.

18 Q. And so it's my understanding there are
19 two ways OCWEN can receive a dispute regarding their
20 credit: They can get a dispute directly from a
21 borrower or a dispute can come from a credit
22 reporting agency; is that correct?

23 A. That is correct.

24 Q. Are there any other ways a dispute can
25 come to OCWEN regarding a debtor's account?

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1 **A.** To my knowledge, it's the borrower's
2 dispute in writing or it goes -- it's from the credit
3 reporting agency.

4 **Q.** Is there any difference in the way that
5 OCWEN treats a dispute directly from a borrower
6 versus a dispute received from a credit reporting
7 agency?

8 **A.** No.

9 **Q.** What if a dispute was to come in from a
10 third-party?

11 **A.** They would have to be authorized.

12 Let me make that clear. Authorized by
13 the borrower in order to speak on their behalf on the
14 account.

15 **Q.** So an attorney, in order to file a
16 dispute, would have to be authorized by the borrower
17 before OCWEN would process that dispute?

18 **A.** Yes.

19 **Q.** And the same for a government agency?

20 **A.** That is correct.

21 **Q.** So when OCWEN receives a dispute either
22 from a borrower or a credit reporting agency, what's
23 the first step?

24 **A.** The first step is, of course, you
25 receive the response. The response is noted in the

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1 account.

2 Q. I'm sorry. Can you define response for
3 me?

4 A. Okay. The correspondence --

5 Q. Correspondence? Okay.

6 A. -- is received, and it's noted in the
7 account, in the system. And an acknowledgment letter
8 is sent acknowledging receipt of the correspondence.
9 And then the investigation and/or research is
10 conducted at that point. And then, once that is
11 done, then the response gets sent to the borrower.

12 Q. So the correspondence is received and
13 noted in the account?

14 A. Correct.

15 Q. At that point the reinvestigation
16 occurs?

17 A. That is correct.

18 Q. Now, what type of reinvestigation is
19 done?

20 A. It depends on the dispute that comes in.
21 So that, based on the dispute, there is not only the
22 system that is -- that gets verified, there is --
23 we -- I should say we, meaning OCWEN, the credit
24 reporting department, has authority by going into and
25 reviewing the borrower's documentation, business

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1 records, that is kept in the ordinary course of
2 business.

3 Q. You mentioned the credit reporting
4 department?

5 A. Yes.

6 Q. So once this initial dispute or the
7 correspondence response comes in, it gets noted, does
8 it get shipped to this credit reporting department?

9 A. Again, it depends on the dispute. So it
10 goes to a research department. We have a research
11 department. And based on the dispute, if the dispute
12 is dealing on credit reporting or an account claiming
13 that is not theirs, then it would go into the -- it
14 would go to the credit reporting department.

15 Q. So the research department kind of
16 funnels it out? They get it and look at it and see
17 where it needs to go from there?

18 A. Correct. Or they respond to it.

19 Q. What types of disputes would the
20 research department respond to directly without
21 shipping it on to another department?

22 A. Servicing. Servicing research of a
23 dispute.

24 Q. And what type of employees are employed
25 in the research department?

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1 A. What type of employees? They're
2 employees.

3 Q. What kind of educational backgrounds or
4 qualifications are required to work in the research
5 department?

6 A. I don't know. Everything is based on
7 experience.

8 Q. What type of experience would they look
9 for?

10 A. Research, mortgage background.

11 Q. So someone in the research department
12 analyzes the dispute, and then, at this point, if
13 they deem that it's regarding the credit reporting it
14 gets shipped along to the credit reporting
15 department?

16 A. That is correct.

17 Q. And where is the credit reporting
18 department based out of mainly?

19 A. That's a -- well, we have Waterloo,
20 Iowa. We have West Palm Beach, Florida.

21 Q. That's where we tried to do this
22 deposition, but we couldn't get it worked out. It
23 would have been a lot nicer down there; what do you
24 think?

25 A. I can only name the offices that we're

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1 located in at this point.

2 Q. Sure.

3 A. There is, of course, India. I mean --
4 it depends. It's spread out.

5 Q. Now, what qualifications are sought for
6 employees in these departments?

7 A. I don't know. I mean -- I guessed for
8 the research department, so I'm not going to
9 second-guess it again.

10 Q. Are these typically entry level type
11 positions? You said that some experience in mortgage
12 background you thought, you guessed, would be sought?

13 A. It's an assumption. You know -- so I'm
14 going to say I don't know.

15 Q. And so at this point the research
16 department has the correspondence, and they reviewed
17 it. What do they pass along to the credit research
18 department?

19 A. The actual correspondence. And it's
20 also noted in the account when they receive it, as
21 well, and what they have done in order to conduct
22 that research.

23 Q. What would they have done at that point?

24 A. Well, it depends on the situation. It
25 depends on the dispute.

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1 Q. So the research passes on the entire
2 correspondence that they received?

3 A. Right. They can pass that
4 correspondence on to that department, as well as
5 there is -- well, I'll just say pass on that
6 correspondence from the research to that department.

7 Q. So once the credit reporting department
8 receives this correspondence, they receive the notes
9 in the system of what's been done to that point, what
10 is their first step?

11 A. Their step is based on the dispute they
12 will conduct their research to make -- to reaffirm
13 that, in this case, that the account belongs to the
14 borrower. They will also, as far as notate the
15 account, to input -- to show what they've done to
16 reaffirm that this account is the borrower's account.
17 So they can look into -- review the business records,
18 the note, the mortgage, any additional closing docs.

19 Q. And so when you say they reaffirm the
20 account belongs to the borrower, is that something
21 that's done regardless of the dispute?

22 A. Yes. That can be done in the research
23 department, as well as before forwarding over to the
24 credit reporting department. Again, it depends on
25 the dispute. So if there is a credit reporting

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1 dispute, it would go to the credit reporting
2 department.

3 Q. And so regardless of what else the
4 correspondence disputes, once -- the credit reporting
5 department is going to reaffirm that the debt belongs
6 to the borrower?

7 A. That is correct.

8 Q. And are there any other steps that are
9 taken in every dispute regardless of what the
10 specific content is? Because it sounds like --

11 A. Yes. Again, you have to be a little
12 more -- you have to generalize based on a dispute or
13 be a little more specific on what type of dispute in
14 the credit reporting department that they handled.

15 Q. But they do reaffirm the debt belongs to
16 the borrower?

17 A. That is correct.

18 Q. Regardless of dispute?

19 But beyond that, there is no other
20 standard practice in the research department?

21 A. Again, it depends on the type of
22 dispute. And then the response goes back to the
23 borrower based on what they've concluded on their --
24 on their research.

25 Q. Now, is that -- even if a dispute is

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1 originated from the credit reporting agency, does the
2 borrower still get a direct resolution letter from
3 OCWEN?

4 A. Can you repeat that question?

5 Q. Yes.

6 So there are two ways a consumer can
7 dispute their debt, either directly or through a
8 credit reporting agency?

9 A. That is correct. We start with a
10 borrower's dispute.

11 Q. So if a dispute came through a credit
12 reporting agency --

13 A. Then it goes directly to the credit
14 reporting department. There is a separate system
15 that they use that does the communications to the
16 national agencies.

17 Q. Let me back up then. I'm sorry. I got
18 confused.

19 So this is when the borrower submits the
20 dispute, the --

21 A. A direct dispute from the borrower. I
22 think that was your initial question.

23 Q. Got you.

24 And so the response would go directly
25 back to the borrower at that point?

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1 **A. That's correct.**

2 **Q. If a dispute originated from a**
3 **third-party that was authorized to file that dispute,**
4 **would they get the dispute resolved?**

5 **A. All parties should receive it. The**
6 **borrower should receive, as well as the third-party.**

7 **Q. And so -- okay. So when the credit**
8 **reporting agency initially makes the dispute with**
9 **OCWEN, is there a different process? Does it go to**
10 **the research department?**

11 **A. No, because the credit agency went**
12 **directly to the credit reporting department. They**
13 **use a separate system to do their communications**
14 **regarding the dispute.**

15 **Q. What system is that?**

16 **A. e-Oscar.**

17 **Q. So what form comes to the credit**
18 **reporting department through e-Oscar?**

19 **A. e-Oscar is an ACDV.**

20 **Q. Is it always automated or is there ever**
21 **just a regular consumer dispute verification form**
22 **sent, a paper form sent?**

23 **A. No. Everything is through the system.**

24 **Q. Strictly automated?**

25 **A. Yes.**

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1 Q. And does anything come along with the
2 ACDV?

3 A. No.

4 Q. Are there ever any attachments to the
5 ACDV from the credit reporting agencies to OCWEN?

6 A. No. It's just the type of dispute. And
7 based on the type of dispute, the credit reporting
8 department then notates the OCWEN system of the
9 dispute coming in. And that also takes within
10 30 days to respond back.

11 Q. The 30 days starts as soon as OCWEN
12 receives the ACDV?

13 A. That is correct. And that stays
14 directly in the credit reporting department.

15 Q. So OCWEN's investigation is based solely
16 off of the credit reporting agency's dispute?

17 A. OCWEN, meaning the credit reporting
18 department?

19 Q. Yes.

20 A. Yes.

21 Q. Sorry.

22 So they don't receive correspondence
23 when they get an ACDV --

24 A. No.

25 Q. -- is that correct?

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1 A. No.

2 Q. So, for instance, Equifax would not
3 attach a letter from a consumer?

4 A. No.

5 Q. So how does Equifax communicate the
6 dispute for OCWEN to reinvestigate?

7 A. Certain codes that they use, and based
8 on the code they -- for instance, Equifax stipulates
9 what the dispute is about. And that also gets
10 notated in OCWEN's system.

11 Q. When you say stipulates what the dispute
12 is about --

13 A. Right. Based on an AC -- ACDV form that
14 comes through to OCWEN through the e-Oscar, it tells
15 you what the dispute is, borrower's name,
16 information, and the type of dispute that the
17 borrower has sent to them.

18 Q. So based on that -- based on
19 Equifax's -- in this example, based on Equifax's
20 designation of the dispute, OCWEN investigates that
21 specific dispute?

22 A. Yes. That's correct.

23 Q. Along with affirming that the account
24 belongs to the borrower?

25 A. That is correct.

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1 Q. So what are OCWEN's -- what's their
2 decision tree once they receive a dispute and they've
3 reinvestigated it?

4 A. The response goes back to the credit
5 agency based on their findings.

6 Q. And what are the possible responses?

7 A. The possible responses is reconfirming
8 that the borrower's name matches to OCWEN's records,
9 Social Security number, property address, and
10 whatever the findings are as far as the credit that
11 OCWEN has reported to the credit agency. And the
12 credit reporting also does initial investigation as
13 far as reviewing the business records, as well as
14 what's in the OCWEN system, to assure that the
15 account does belong to the borrower.

16 Q. So you say they can review the business
17 records?

18 A. Yes.

19 Q. And you reference the mortgage?

20 A. The mortgage, any closing documentation,
21 anything that is forwarded to us.

22 Q. Forwarded from where?

23 A. From the processors, in this case Litton
24 Mortgage. So in this case OCWEN acquired Litton
25 Mortgage, so OCWEN also had access to their business

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1 records, as well, their system, reconfirming that.

2 Q. Okay. In a hypothetical where OCWEN
3 received a dispute, they look over the closing
4 documents and they're still not able to resolve the
5 dispute by looking at those, other paperwork, is
6 there anything else they can do to investigate such a
7 dispute?

8 A. Well, hypothetical question?

9 Q. Yes.

10 A. Hypothetical.

11 Q. Can they, for instance, contact the
12 research department for a service question?

13 A. They have access to contact any
14 department within OCWEN, as well as they can
15 research -- they're trained to research anything --
16 anything as far as the whole system, so the whole
17 system is the loan servicing system. They can find
18 any additional information or any information that
19 they can possibly find in the OCWEN system.

20 Q. So they do have broader access -- they
21 typically would look to closing documents or
22 documents from the prior servicer, but if they needed
23 additional information they have access to that?

24 A. Yes. The system -- I have access. I
25 can view each -- I can view as far as escrows, loan

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1 information, taxes, anything dealing with the loan
2 servicing of that loan.

3 And just to clarify, each department
4 have certain -- have their own functions as far as
5 system -- well, like credit reporting deals strictly
6 with credit reporting. They're not accessed to input
7 other information other than the credit reporting
8 information. Same goes for any other department.

9 Q. So someone in credit reporting could
10 review an escrow department?

11 A. They can only review it.

12 Q. But they can't add to it?

13 A. They can't add to it.

14 Q. Okay. Is there ever a situation where
15 credit reporting identifies an issue in the escrow
16 department and they need to communicate to escrow to
17 fix it or to collaborate? Does that occur?

18 A. It could occur with any department, so
19 an email and/or -- as well as identifying in the note
20 log an email sent to; for instance, you mentioned
21 escrow department, identifying an error.

22 Q. Okay.

23 A. Or a correction in -- error, a
24 correction that needs to be made.

25 Q. So if the credit reporting department

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1 identifies an issue that has arisen in another
2 department, are they able to change the credit report
3 without modifying the other department, as well?

4 A. Who?

5 Q. So, for instance, the credit reporting
6 department identifies an issue with escrow based on a
7 consumer dispute, they notify the escrow department.
8 Are they allowed to modify the credit report based on
9 this dispute and their investigation without getting
10 a simultaneous modification in the escrow department?

11 MR. MANNING: Object to the form.

12 You can answer if you understand.

13 THE WITNESS: I think I understand. I
14 think.

15 BY MR. NOLAN:

16 Q. Convolutd there, so --

17 A. Based on your question, nothing can be
18 done to -- in regards to credit reporting until the
19 full investigation is completed, if that's what you
20 meant. And these are all hypothetical questions.

21 Q. That is correct.

22 A. Okay.

23 Q. So once the credit reporting department
24 completes its review and sends a response back to the
25 credit reporting agency, I assume?

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